

SECTION 7-3 PROPERTY MAINTENANCE ORDINANCE

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State law reference(s)--Municipal authority to define and abate nuisances, NMSA 1978, 3-18-17.

7-3-1 INTENT. The Governing Body of the Village of Bosque Farms does hereby find that it is necessary to provide for the abatement of conditions which are offensive or annoying to the senses, detrimental to property values and community appearance, an obstruction to or interference with the comfortable enjoyment of adjacent property or premises, or hazardous or injurious to the health, safety or welfare of the general public; and, to provide standards to safeguard life, health and public welfare.

7-3-2 RESPONSIBILITY. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this Ordinance. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this Ordinance. All occupants, including tenants and lessees of a dwelling are responsible for keeping it in a clean, sanitary and safe condition in that part of the dwelling or premises, which they occupy and control in compliance with the requirements of this Ordinance.

7-3-3 DEFINITIONS.

A. For specific purposes of this Ordinance, the following terms, whenever used or referred to in this Ordinance, shall have the respective meanings assigned to them unless a different meaning clearly appears from the content. Words not defined here shall be defined by standard dictionary definitions.

B. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neutral the singular number includes the plural and the plural, the singular.

C. Abandoned means to intentionally and permanently give up, surrender, or relinquish all interest or ownership in property.

D. Antique Vehicle means a vehicle which is at least 35 (thirty-five) years old.

E. Collector means the owner of one (1) or more vehicles that are antique, historic or special interest, who collects, purchases, acquires, trades, or disposes of these vehicles or parts thereof for their own use in order to preserve, restore, and maintain a vehicle for hobby purposes.

F. Dwelling Unit means any structure or part of a structure intended for human occupancy and containing one (1) or more connected rooms and a single kitchen, designed for living and sleeping purposes. A dwelling unit may include a mobile/manufactured home, a modular housing unit, and site built house, or Planned Residential Development.

G. Exterior Property means the open space on the premises and on adjoining property under the control of owners or operator of such premises.

H. Governing Body means the Village of Bosque Farms Mayor and Councilors.

I. Graffiti means a letters, numbers, word or words, writings or inscriptions, symbols, drawings, carvings, stickers, etchings or any other marking of any nature whatsoever which defaces, obliterates, covers, alters, damages or destroys the real or personal property of another.

J. Infestation means the presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests to such a degree as to pose a threat to the health or safety of occupants of the structure or any other contiguous structure or premises.

K. Inoperable Motor Vehicle means any motor vehicle, which is incapable of being propelled under its own power.

L. Junk Vehicle means any motor vehicle, other than antique, historic, or special interest vehicle, which is:

1. Has been continually inoperative for at least one hundred twenty (120) days or has been wrecked, dismantled, partially dismantled, or abandoned; and
2. Does not meet minimum safety standards for operation on the public streets and highways of this state.

M. Occupancy means the purpose for which a building or portion thereof is utilized or occupied

N. Occupant means any individual living or sleeping in a building, or having possession of a space within a building.

O. Outdoor Storage means storage not contained by four (4) walls and a roof.

P. Owner means any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or record in the official records of the state, county or municipality as holding title to the property; including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Q. Parts Car means an antique, historic, or special interest motor vehicle generally in inoperable condition which is owned by a collector, to furnish parts and/or harvest parts that are usually unobtainable from normal sources, thus enabling a collector to preserve, restore and/or maintain an antique, historic or special interest motor vehicle.

R. Person in Charge of Property means owner, tenant, lessee, manager, occupant, agent, representative, or employee.

S. Planning & Zoning Administrator/Officer means the Village of Bosque Farms Planning & Zoning Administrator/Officer or their designee.

T. Premise(s) means a piece of real estate, house, or building and its land.

U. Refuse means, but is not limited to, debris, garbage, litter, rubbish and/or the like.

1. **Debris** means bits and pieces of stone, wood, glass such as after destruction.
2. **Garbage** means the animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food, not including managed compost.
3. **Litter** means but is not limited to any discarded, uncared for, or worn out manufactured material, machinery including parts of motor vehicles (excluding classic or antique), tires, aircraft, materials, appliances, or unusable scrap metal.

4. Rubbish means combustible and noncombustible waste materials except garbage.

V. Special Interest Vehicle means a vehicle, replica or racecars or copy of such vehicle owned as a collector's item and used for exhibition, educational, historic, or hobby purposes.

W. Structure means anything constructed, placed or erected above ground level, which requires location on the ground or is attached to something having a location on the ground but not including a tent, vehicle, vegetation, public utility pole or line, signs or fences. For the purpose of the Ordinance, mobile/manufactured home is a structure with or without wheels when located on any lot.

Y. Village means the Village of Bosque Farms

Z. Weeds means all rank, noxious, poisonous, harmful unhealthful vegetation or any growth whatsoever of an offensive, unsightly nature.

7-3-4. WEEDS.

A. Owner/ Occupant Responsibility. The person in charge of the real property is required and responsible to take the appropriate action for the control of weeds in conformance with this Section:

1. On the real property owned or occupied by him;
2. In the alley and/or public utility easement abutting such real property to its center line; and
3. In the area between such real property and the edge of any abutting street.

Each such person in charge of property shall destroy, cut, control, and remove such weeds as often as growth and condition of such weeds may require to maintain a maximum height of 12" (twelve inches).

B. Separate Offense. Violations continued for a period of fifteen (15) days after conviction shall be prosecuted and treated as a separate offense.

7-3-5. INTERIOR STRUCTURES. The interior of a structure shall be maintained free from hazardous conditions, structurally sound and sanitary so as not to pose a threat to public health, safety or welfare.

7-3-6 EXTERIOR PROPERTY AREAS.

A. Vacant Structures and Land. All structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to adversely affect the public health or safety.

B. Sanitation. All exterior property and premises shall be maintained in a clean, safe, and sanitary condition free from refuse.

C. Grading and Drainage. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the continuous and repetitive accumulation of stagnate water

there on, or within any structure located thereon Section in Village of Bosque Farms Ordinance 10-1-5.N.

D. Static Display. Public exhibition of stationary objects as part of the landscaping. This includes agricultural equipment, implements or machinery, which promotes or reflects the rural atmosphere of Bosque Farms. These displays are exempt from Village Ordinance 7-3-5.7. Inoperable vehicles are not considered static display pursuant to this Ordinance.

E. Refuse.

1. Accumulation of Refuse. All exterior property and premises, and the interior of every structure shall be free from any accumulation of debris, garbage, litter and rubbish.

2. Household Appliances. Such as refrigerators, freezers, washers, dryers, dishwasher and similar equipment not in operating condition shall not be discarded or stored on exterior property.

3. Disposal and Storage of Refuse. The owner of every occupied premise shall comply with the Village of Bosque Farms Solid Waste Ordinances Section 9-2.

4. Hazardous Chemicals. Any oil, fluids, solvents and other substances that constitute a fire, health, or environmental hazard shall be stored, handled and disposed of in accordance with state and federal regulations.

F. Graffiti. The owner of a property within the Village which has any form of graffiti on any building, structure, or surface without the permission of the owner of the said property shall be required to either restore the defaced surface by removing the graffiti or repainting the defaced surface within ten (10) business days after notice by the Planning & Zoning Administrator/Officer.

7-3-7. ANTIQUE, HISTORIC, SPECIAL INTEREST, PART, AND INOPERABLE MOTOR VEHICLES.

A. It is unlawful for any person to permit, or cause to remain in or about his lot an inoperable motor vehicle, except as set forth in this Section.

B. In order to preserve the residential, and/or rural character and appearance of the Village, and to protect the health and safety of the residents, the accumulation of inoperable motor vehicles is restricted and shall be regulated as follows:

1. After written notification of violation, the owner will be given fifteen (15) days to make the vehicles operable;

2. Proof of activity, including but not limited to invoices dated within the preceding ten (10) days after the vehicle has been deemed inoperable or vehicle parts have been ordered and have not been received, will be grounds to grant an extension by the Planning & Zoning Administrator/Officer for an additional sixty (60) days. No more than two (2) such extensions shall be granted on any motor vehicle.

3. Separate Offense. Violations continued for a period of fifteen (15) days after conviction shall be prosecuted and treated as a separate offense.

C. This Section shall not be construed to permit the parking or placing of antique, historic, special interest, part or inoperable motor vehicles on any public right-of-way.

D. Exceptions:

1. Owners of antique cars, historic, or special interest motor vehicles shall store vehicles, associated parts cars and replacement parts for those vehicles on his private property provided:

a. Such vehicles and parts cars, and the outdoor storage area, are maintained in such a manner that they do not constitute a health, safety, or fire hazards; and

b. Vehicles and parts cars stored outdoors shall be stored within an outdoor storage area, which will effectively screen them from public view year round. The vehicles may be stored within a solid fence, Section in 10.1.5.G of the Bosque Farms Village Ordinance, constructed at least six (6) feet high, but not more than eight (8) feet high and/or shall be completely obscured from public view by trees or shrubbery; and

c. Such storage area shall be kept free of weeds, rubbish, garbage, litter, trash and other objectionable objects; and

d. Such storage area shall be included in the calculation of impervious surface area on a lot as set forth in Ordinance Section 10.1.5.J. This restriction does not apply in the C1 zone; and

e. Storage area setbacks are subject to the regulations as stated in Section 10-1-5.; and

f. Storage area shall not be used for any business venture and/or business enterprise; and

E. Outdoor storage of visible parts cars is limited to one which the property owner shall designate by a permit to the Planning & Zoning Administrator/Officer and pay an administrative fee of \$25.00 (twenty-five dollars) per month for such permit. The permit to be acquired within 2 (two) working days from the Planning & Zoning Administrator/Officer.

7-3-8 DANGEROUS BUILDING OR DEBRIS REMOVAL. The Village of Bosque Farms will institute the appropriate and lawful procedures pursuant to NMSA 1978 Section 3-18-5 et.esq. to correct or abate such violations.

7-3-9 DOOR-TO-DOOR SALES

A. The practice of solicitors, hawkers, peddlers, itinerant merchandise or transient vendors (except newspapers) going in or upon private premises in the Village, not having been requested or invited to do so by the owner or owners, occupant or occupants of such private residences, for the purpose of soliciting orders for the sale of goods, wares, merchandise or publications, other than newspapers, or for the purpose of disposing or peddling or hawking the same, is hereby declared to be a nuisance, and such practices are prohibited by this Ordinance, as constituting a nuisance.

B. The provisions of this Ordinance shall not apply to the sale delivery or soliciting orders for newspaper publications and the provisions of this ordinance shall not apply to the sale of or the soliciting of orders for the sale of milk, dairy products, poultry, eggs, and other

farm or garden produce so far as the sale of the commodities named in this Section are authorized by law.

7-3-10 DUTIES AND POWERS OF THE PLANNING & ZONING ADMINISTRATOR/OFFICER

A. Inspections. The Planning & Zoning Administrator/Officer has the authority to request an inspection of buildings, structures, and the use of land to determine compliance with this Ordinance. This provision does not grant right-of-entry without due process if necessary.

B. Right of Entry. The Planning & Zoning Administrator/Officer shall request, with proof of, or basis for, due cause to enter the structure or premises at a notified and reasonable time subject to constitutional restrictions on reasonable searches and seizures. If entry is refused or not obtained, the Planning & Zoning Administrator/Officer is authorized to pursue recourse as provided by law.

C. Identification. The Planning & Zoning Administrator/Officer shall carry proper identification when inspecting structures or premises in the performance of duties under this Ordinance.

7-3-11 NOTICES AND ORDERS.

A. Notice to person responsible. Whenever the Planning & Zoning Administrator/Officer determines that there has been a violation of this Section 7-3 Property Maintenance Ordinance or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Section 7-3-10 to the person responsible for the violation as specified in this Ordinance. Notices for dangerous buildings or debris removal procedures shall also comply as defined in Section 7-3-10.

B. Form. Such notice prescribed in Section 7-3-10 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation of violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this Ordinance, except as otherwise provided in this Ordinance.

C. Method of Service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Sent by first-class mail, addressed to the last known address; or
2. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure and/or premises affected by such notice with proof of notice filed with the Village Clerk/Administrator.

7-3-12

VIOLETIONS

A. Prosecution of Violations. Any person failing to comply with this notice of violation or order within 15 (fifteen) days as served in accordance with Section 7-3-4 through 7-3-8 shall be charged with a petty misdemeanor. If the notice of violation is not complied with, the Planning & Zoning Administrator/Officer shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of the Ordinance or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and lien may be placed upon such real estate. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

B. Penalties. Any person violating any of the provisions of this Ordinance shall, upon conviction, be subject to a fine not exceeding \$500.00 (five hundred dollars) or imprisonment for a period not exceeding ninety (90) days, or both such fine and imprisonment. Each subsequent offense after conviction shall be prosecuted and treated as a separate offense.

This provision does not preclude further action as set forth in 7-3-11.A.

7-3-13 LIABILITY. The Planning & Zoning Administrator/Officer or their designee charged with the enforcement of this Ordinance, while acting for the jurisdiction, shall not be liable for any damages, fees or costs accruing to person or property as a result of an act required or permitted in the discharge of official duties.

Any suit instituted against any official or employee because of an act performed by that official or employee in the lawful discharge of duties and under the provisions of the Ordinance shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The Planning & Zoning Administrator/Officer shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this Ordinance. Any person charged with enforcement of the Ordinance, acting in good faith, and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

7-3-14 SEVERABILITY. If any action, subsection, paragraph, phrase, or other portion of this Ordinance shall be declared, invalid for any reason whatsoever by a court of competent jurisdiction, then such decision shall not affect the validity or enforceability of the remaining portions of this Ordinance.

7-3-15 REPEAL. Chapter 7, Article 3, Section 1 "Public Nuisance", Chapter 7, Article 3, Section 2, "Polluting Water", Chapter 7, Article 3, Section 4 "Placing Injurious Substances on Highways" and Chapter 7, Article 3, Section 10 "Tobacco Use", Chapter 11, Article 2. "Weed Ordinance" are hereby repealed. Chapter 1, Article 3, Section 3 "Abandonment of Dangerous Containers" has been replaced by Chapter 7, Article 3, Section 6.E.2. "Household Appliances, Chapter 7, Article 3, Section 1.5 "Door-to-Door Sales" has been replaced by Chapter 7, Article 3, Section 8 "Door-to-Door Sales". Chapter 7, Article 3, Section 1 "Intent", Section 2. "Responsibility", Section 3. "Definitions", Section 4 "Weeds", Section 5 "Interior Structures", Section 6. "Exterior Property Areas", Section 7 "Antique, Historic,

Special Interest, Part and Inoperable Motor Vehicles", Section 8 "Dangerous Buildings or Debris Removal", Section 10. "Duties and Powers of the Planning & Zoning Administrator/Officer", Section 11. "Notice and Orders", Section 12. "Violations", Section 13 "Penalties", Section 14. "Liability", Section 15. "Severability", Section 16. "Repeal" and Section 17. "Effective Date" are hereby added to the Municipal Code of the Village of Bosque. The adoption of this Ordinance, however, shall not affect or prevent any pending or future prosecution of, or action to abate, any existing violation of said Sections 7-3-1 through 13. and 11-2 if the violation is also a violation of the provisions of this Ordinance.

7-3-16 EFFECTIVE DATE. This Ordinance shall become effective five (5) days after its Adoption, Approval and Publication as provided for by law.

PASSED, APPROVED AND ADOPTED ON THIS 19th DAY OF March, 2009.

Wayne Ake, Mayor

ATTEST:

Gayle A. Jones, Clerk/Administrator

Effective Date: March 30, 2009